



## INTRODUCTION

The Board of Selectmen is pleased to present its report to Town Meeting of its main motions under the following articles. These votes are the result of hearings conducted by the Board at which proponents and opponents of the various articles were heard. The Board has voted no action on several of the 10 registered voters articles since in some instances the requested action can be accomplished without a Town Meeting vote. The Board appreciates the proponents having brought these matters forward.

The Board will be exploring with the new Town Moderator ways of expediting Town Meeting without sacrificing the careful deliberative process that the Arlington Town Meeting is known for. This may include starting and ending each session earlier and the possibility of holding at least one full-day Saturday session. The Board recognizes that it is the Town Meeting's prerogative to make these decisions.

The Board knows that the Town Meeting will give fair and serious consideration to all of the important issues raised by the various articles. The Board wishes the Town Meeting well in its deliberations and stands ready to respond to any questions or comments concerning these articles.

All votes are unanimous unless otherwise indicated.

### **ARTICLE 3                      APPOINTMENT OF MEASURERS OF WOOD AND BARK**

**VOTED:**        **That John Fitzmaurice be appointed as the Town's Measurer of wood and bark until the next Annual Town Meeting.**

**(3-0)**

**Mr. Greeley and Mr. Hurd absent**

**COMMENT:**        This is the usual vote to appoint someone who would referee any disputes concerning the proper quantity of wood delivered to residents of the Town. Mr. Fitzmaurice has ably discharged these duties to the extent that he has been required to do so.

### **ARTICLE 4                      ELECTION OF ASSISTANT TOWN MODERATOR**

**VOTED:**        **That the Town Moderator will conduct an election for the post of Assistant Town Moderator as required in the Bylaws to assist him in his duties.**

**(3-0)**

**Mr. Greeley and Mr. Hurd absent**

## **ARTICLE 10**

## **BYLAW AMENDMENT/STORMWATER MANAGEMENT**

**VOTED:** That Title V Regulations Upon the Use of private property be and hereby is amended by adding a new Article 15 thereto to be entitled “Storm Water Mitigation” as follows:

### **Article 15 Storm Water Mitigation**

#### **Section 1. Definitions**

- A. “Building footprint” – the outline of the total area covered by a building’s perimeter at the ground level**
- B. “Impervious surface” – a hard-surfaced, man-made area that does not readily absorb or retain water, preventing the infiltration of storm water runoff; including but not limited to building roofs, parking and driveway areas, sidewalks, paved recreation areas, structural additions, accessory structures, roads, pools and play areas, structural additions, accessory structures, roads, pools and play areas.**
- C. “Predevelopment” – the status of a property at the time prior to request for a permit for new construction or increase to the impervious surface area of a lot**
- D. “Runoff Rate” – the speed and volume of storm water which flows over the surface of the land**
- E. “Runoff” – rainfall, snowmelt, or irrigation water flowing over the ground surface or directed through a pipe or culvert**
- F. “Storm water” – storm water, snow melt; the flow of water which results from precipitation and which occurs following rainfall or snowmelt**

#### **Section 2. Applicability**

**This bylaw is applicable to the following development or redevelopment:**

- A. All development of a previously undeveloped vacant lot, resulting in a structure where building footprint and other impervious surfaces exceeds 1,500 square feet;**
- B. Alteration of a developed property resulting in an increase to the impervious area of a lot by more than 350 square feet.**

**This bylaw shall not apply, however, to the paving of private ways that are owned in common with abutting lot owners, and that serve purposes similar to that of public ways, and that are not driveways entirely located on a single lot or on multiple lots under the same ownership.**

### **Section 3. Standard**

**No project subject to this bylaw may increase the surface water runoff rate relative to the predevelopment runoff rate.**

### **Section 4. Procedure**

- A. Application:** Prior to the issuance of a building permit for any activity subject to this bylaw, a grading and drainage plan shall be submitted to the Engineering Division, consistent with specifications to be developed by the Arlington Department of Public Works. A fee of \$25.00 shall be assessed to cover the costs of review of the plan.
- B. Review:** The Engineering Division will review the application, and within 14 days approve, approve subject to conditions, or reject the plan.
- C. Relief:** The applicant may request relief when strict adherence to this bylaw can be shown to constitute significant hardship due to unique topographical aspects of the site or due to serious financial hardship. Relief may be granted by the Director of Public Works, after consultation with the Engineering Division. Further relief from the decision of the Director of Public Works may be sought from the Zoning Board of Appeals, which will make a *de novo* determination after a hearing on the merits.
- D. Prior to project completion,** the Town Engineer or his representative shall determine if there has been compliance with the storm water plan; if found to be not in compliance, the applicant will be notified of remaining work to be done; if found to be in compliance, a certificate of completion will be issued.

### **Section 5. Administration**

- A. The Engineering Division,** subject to approval by the Director of Public Works and the Town Manager, shall establish administrative procedures for the review and approval of storm water management plans. Failure to promulgate rules and regulations will not have the effect of suspending or invalidating this bylaw.
- B. The Engineering Division shall utilize the policy, criteria, and information,** including specifications and standards, of the latest edition of the Massachusetts Department of Environmental Protection's revised Surface Water Discharge Permit Regulations at 314 CMR 3.06(11)(b)5 Storm Water Management Policy for execution of the provisions of this bylaw.

**COMMENT:** This article was inserted at the request of the Redevelopment Board and the Conservation Commission. This bylaw would support the National Pollutant Discharge Elimination System (NPDES) Phase II permit program, and is designed to result in the protection of water resources. The goals of the NPDES program and this bylaw are to reduce the amount of storm water runoff, to improve the quality of the storm water runoff that does occur, and to reduce flooding. The purpose of this bylaw

is to protect, maintain and enhance the public health, safety, environment and general welfare by establishing a standard of practice which will ensure the soil erosion and sedimentation control measures and storm water runoff control practices are incorporated into the site planning and design process and are implemented and maintained. Such efforts will control the adverse effects of post-development storm water runoff and non-point source pollution associated with new development and redevelopment.

The goal of this program is to prevent increases in storm water runoff. The goal can be addressed by integrating storm water runoff controls into new development plans.

To accomplish these ends, all land development activities shall maintain the after-development runoff rate so that it will be equal to or less than the pre-development runoff rate. Application of recognized and accepted Best Management Practices for storm water control are encouraged, as well as practices of “low impact development,” such as reduction of impervious cover and preservation of green space and natural areas, to the maximum extent practicable.

Small but important improvements in reducing storm water runoff problems can be achieved by individual homeowners and small project designers. These include, but are not limited to, these examples:

1. Minimum land clearing;
2. Protection and maintenance of vegetative buffers, and bioretention;
3. Pervious paving systems for driveways and parking areas (such as Ecopavers or plastic grids that hold soil in the voids and can be planted as lawn, but withstand vehicle traffic);
4. Rain barrels attached to downspouts for use in landscape watering;
5. Trench drains and drywells; and
6. Rain gardens planted with native plants that are “thirsty” – such as blueberries, red-twig dogwood, or pussy willow.

The Board believes that an affirmative vote hereunder would provide needed protection for the Town’s water resources.

## **ARTICLE 12        BYLAW AMENDMENT/PROHIBITION AGAINST CERTAIN    EMINENT DOMAIN TAKINGS**

**VOTED:** That Title I of the Bylaws be and hereby is amended to provide for a new Article 20, “Prohibition Against Certain Eminent Domain Takings,” to provide as follows:

### **‘Article 20.    Prohibition Against Certain Eminent Domain Takings.**

#### **Section 1.**

**The Town shall not exercise its right to take by eminent domain any privately held property except for a public purpose as same is provided in the taking clause of the Fifth Amendment to the Constitution of the United States. The term public purpose shall be strictly construed to prohibit the taking of private property if the intent or result thereof is to benefit a private party.**

#### **Section 2.**

**The authority of the Town and its agencies as reserved to localities under Chapter 79 of the Massachusetts General Laws, to seize privately owned parcels against the expressed will of the owner through the use of eminent domain procedures, shall, in light of the United States Supreme Court ruling in *Kelo vs. New London, Connecticut* be specifically further limited:**

**To only those proposed taking actions incorporating the transfer of private parcel(s) to the Town of Arlington or any of its authorized agencies and under no circumstances to another private party, and;**

**Section.3.**

**Nothing in the bylaw shall limit the authority of the Town of Arlington or its authorized agencies to seize property that is endangering the health and safety of its residents or which could otherwise be seized or foreclosed upon for tax delinquency in accordance with the provisions of Chapter 60 of the Massachusetts General Laws.**

**(3-0)**

**Mr. Greeley and Mr. Hurd absent**

**COMMENT:** In 2004 the United States Supreme Court decided the case of Kelo v. The City of New London, Connecticut, 125 S.Ct. 2655. The facts of the case can be briefly summarized. The City of New London, Connecticut, determined that a certain area of the city, namely the Fort Trumbull area, was an area of high unemployment and was in need of economic revitalization. The pharmaceutical company Pfizer announced it would build a \$300 million research facility near the Fort Trumbull site which contained 115 privately owned properties. The urban renewal plan would provide for new residences, parking, retail services and other amenities calculated to bring economic revitalization to the area. The New London plan was intended to capitalize on the arrival of Pfizer and the new commerce it would hopefully attract. In addition to creating jobs, generating tax revenue, it was designed to make the city more attractive and to create recreational opportunities on the waterfront.

The City entered into negotiations to purchase the private parcels, but certain property owners including Susette Kelo balked. She had made expensive repairs to her house and valued it for its water view. There was no allegation that any of these properties were blighted, and the only reason they were condemned was because they were in the proposed development area.

The property owners brought claim in Connecticut Superior Court alleging that the public use provision of the taking clause of the Fifth Amendment to the U. S. Constitution prohibited such a taking. A Superior Court Judge issued an injunction against the City of New London essentially agreeing with the arguments of the petitioners. The Supreme Court of Connecticut reversed the trial judge in a divided opinion. It determined that the economic development of the Fort Trumbull area satisfied the “public use” part of the Fifth Amendment. The United States Supreme Court granted certiorari and in a five to four decision upheld the takings. Both the majority opinion and the dissenters agreed that the City would be forbidden from taking the petitioners’ land for the purpose of conferring a private benefit on a particular private party since this

would serve no legitimate public interest. However, the majority considered that the redevelopment of the Fort Trumbull area was a legitimate public use notwithstanding the fact that as yet to be determined private parties would ultimately be benefited since the public good of society as a whole would be advanced.

However, the Board is convinced that by far the stronger arguments were put forth by the dissent rather than the majority opinion. The dissenters pointed to the precise wording of the taking clause of the Fifth Amendment which states that “private property shall not be taken for public use without just compensation.” The issue of just compensation was not an issue in the Kelo case. However, the dissenters opined that “the public use requirement imposes a more basic limitation, proscribing the very scope of the eminent domain power. Government may compel an individual to forfeit her property for the public’s use but not for the benefit of another private person.” In essence the dissenters determined that economic development takings are not constitutional since private parties will be eventually benefited. The dissenters observed that the Fort Trumbull private property area was not blighted, which may have presented a different result if it were. In previous cases the Court had upheld the extraordinary act of taking a house in designated property areas since the neighborhood as a whole inflicted affirmative harm either due to blight or extreme poverty. It did not matter that the property was turned over to private use. The dissenters contrasted the Kelo properties since they were well maintained and that the homes were not the source of any social harm.

The dissent stated that:

“But nearly any lawful use of real private property can be said to generate some incidental benefit to the public. Thus, if predicted (or even guaranteed) positive side-effects are enough to render transfer from one private party to another constitutional, then the words ‘for public use’ do not realistically exclude *any* takings, and thus do not exert any constraint on the eminent domain power...

And whatever the reason for a given condemnation, the effect is the same from the constitutional perspective-private property forcibly relinquished to new private ownership...

The specter of condemnation hangs over all property. Nothing is to prevent the State from replacing any Motel 6 with a Ritz-Carlton, any home with a shopping mall, or any farm with a factory...

The beneficiaries are likely to be those citizens with disproportionate influence and power in the political process, including large corporations and development firms. As for the victims, the government now has license to transfer property from those with fewer resources to those with more. The founders cannot have intended this perverse result....”

The Board strongly urges the enactment of the above bylaw.

## **ARTICLE 13      BYLAW AMENDMENT/PROPERTY TAX DEFERMENT AND PROPERTY TAX INFORMATION**

**VOTED:** That no action be taken under Article 13 of the Warrant.

**(3-0)**

**Mr. Greeley and Mrs. Mahon absent**

**COMMENT:** The Board encouraged the principal proponent to work with the Board of Assessors and Town Treasurer to resolve this matter, which would obviate the necessity of a bylaw amendment.

## **ARTICLE 14**

## **BYLAW AMENDMENT/GRAFFITI**

**VOTED:** That Title VIII Public Health and Safety be and hereby is amended by adding a new Article 5 to be entitled "Vandalism and Graffiti" and to provide as follows:

### **Article 5. Vandalism and Graffiti**

#### **Section 1.**

##### **Purpose and Intent.**

Vandalism and graffiti are public nuisances which interfere with the rights and values of property owners and the entire community. This bylaw is intended to provide enforcement tools to protect public and private property from acts of vandalism and graffiti; to establish a plan to remove graffiti; to seek reimbursement of all vandalism and graffiti repair costs incurred by the Town; and to impose penalties upon violators. Unless action is taken other properties within the Town become targets of vandalism and graffiti. And as a result, entire neighborhoods can become less desirable places in which to reside, attend school, work, and visit: all to the detriment of the Town. This bylaw is not intended to conflict with any existing vandalism and anti-graffiti state laws, or as they may be subsequently amended.

#### **Section 2.**

##### **Definitions.**

For the purpose of this bylaw, the following words, terms, and phrases shall have the meanings respectively ascribed to them in this section, except where the context clearly indicates a different meaning:

A. "Aerosol paint container" means any aerosol container that is adapted or made for the purpose of applying spray paint or other substances and is capable of defacing property.

B. "Broad-tipped marker" means any felt tip indelible marker or similar implement with a flat or angled writing surface that, at its broadest width, is greater than one-fourth (1/4) of an inch, containing ink or other pigmented liquid that is not water soluble.

C. "Etching equipment" means any tool, device or substance that can be used to make permanent marks on any natural or man-made surface.

**D. "Graffiti" means any inscription, word, figure, painting or other defacement that is written, marked, etched, scratched, sprayed, drawn, painted, or engraved on or otherwise affixed to any surface of public or private property by any graffiti implement, to the extent that the graffiti was not authorized in advance by the owner or occupant of the property, or, despite advance authorization, is otherwise deemed a public nuisance by the building inspector. As used herein "Graffiti" is considered a form of "Vandalism."**

**E. "Graffiti implement" means an aerosol paint container, a broad-tipped marker, gum label, paint stick or graffiti stick, etching equipment, brush or any other device capable of scarring or leaving a visible mark on any natural or man-made surface.**

**F. "Paint stick or graffiti stick" means any device containing a solid form of paint, chalk, wax, epoxy, or other similar substance capable of being applied to a surface by pressure and leaving a mark thereon.**

**G. "Person" means any individual, association, private corporation, personal trustee, assignee, or any other legal entity partnership, cooperative representative, receiver, trustee, assignee, or any other legal entity.**

**H. "Property" means any property, real or personal, located within the Town of Arlington or any Town-owned property real or personal, regardless of whether such property is located within the Town of Arlington.**

**I. "Vandalism" means to intentionally, willfully and maliciously or want only, paint, mark, scratch, etch or otherwise mark, injure, mar, deface or destroy the real or personal property of another. (See M.G.L. c. 266 §126A and §127).**

### **Section 3.**

#### **Prohibited Acts.**

**It shall be unlawful for any person to commit acts of vandalism or graffiti to property.**

### **Section 4.**

#### **Accessibility to Graffiti Implements.**

##### **A. Display and Storage.**

**1. Every person who owns, conducts, operates, or manages a retail commercial establishment selling aerosol paint containers, paint sticks, or broad-tipped markers shall store the containers, sticks or markers in an area continuously observable, through direct visual observation or surveillance equipment, by employees of the retail establishment during the regular course of business.**

**2. In the event that a commercial retail establishment is unable to store the aerosol paint containers, paint sticks, or broad-tipped markers in an area as provided above, the establishment shall store the containers, sticks and markers in an area**



not accessible to the public in the regular course of business without employee assistance.

**B. Signage Required.** Every person who operates a retail establishment selling graffiti implements shall:

1. Place an interior sign in clear public view stating: "Graffiti Is Against The Law. Any person who defaces real or personal property with paint or any other liquid device shall be punishable by a fine of three hundred dollars (\$300.00)." Such sign(s) shall be at least forty-eight (48) square inches and shall be posted in public view in the store at a height of not less than four (4) feet or greater than nine (9) feet from the floor.

2. Place a sign in clear public view stating "Selling spray paint, paint sticks, or broad-tipped markers to persons under 18 years of age is against the law and punishable by a fine of three hundred dollars (\$300.00).

#### **Section 5.**

##### **Graffiti as Nuisance.**

**A.** The existence of graffiti on public or private property in violation of this bylaw is expressly declared to be a public nuisance and, therefore, is subject to the removal and abatement provisions specified in this bylaw.

**B.** It is the duty of both the owner of the property to which the graffiti has been applied and any person who may be in possession or who has the right to possess such property to at all time keep the property clear of graffiti.

#### **Section 6.**

##### **Removal of Graffiti by Violator.**

**A.** Any person applying graffiti shall be responsible for the removal thereof or for the payment of the removal. Failure of any person to remove graffiti or pay for the removal shall constitute an additional violation of this bylaw. Where graffiti is applied by an unemancipated minor, the parents with legal custody or legal guardian shall also be responsible for such removal or for the payment for the removal. Such removal shall be done in a manner prescribed by the Director of the Department of Public Works.

**B.** Any removal of graffiti from a historical property shall be reviewed by the Arlington Historical Commission or the Arlington Historic District Commission having jurisdiction of the affected property in accordance with their rules and regulations.

#### **Section 7.**

##### **Removal of Graffiti by Property Owner or Town.**

If graffiti is not removed by the violator according to this chapter, graffiti shall be removed pursuant to the following provisions:

**A. Property Owner Responsibility.** It is unlawful for any person who is the owner or who has primary responsibility for control of property or for repair or maintenance of property in the Town to permit property that is defaced with graffiti to remain defaced for a period of ten (10) days after service by first class mail of notice of the defacement. The notice shall contain the following information:

1. The street address and legal description of the property sufficient for identification of the property;
2. A statement that the property is a potential graffiti nuisance property with a concise description of the conditions leading to the finding;
3. A statement that the graffiti shall be removed within ten (10) days after the receipt of the notice and that if the owner does not abate the graffiti within that time the Town will declare the property to be a public nuisance.
4. An information sheet identifying any graffiti removal assistance programs available through the Town and private graffiti removal contractors; and
5. That an extension of time to remove graffiti may be granted by the Town's Director of Public Works.

**B. Right of Town to Remove.**

1. Whenever the Town becomes aware or is notified and determines that graffiti is located on publicly or privately-owned property viewable from a public or quasi-public place, the Town shall be authorized to remove the graffiti, but shall not authorize or undertake to provide for the painting or repair of any more extensive area than that where the graffiti is located, unless the Town Manager or his/her designee determines in writing that a more extensive area is required to be repainted or repaired in order to avoid an aesthetic disfigurement to the neighborhood or community, or unless the property owner or responsible party agrees to pay for the costs of repainting or repairing the more extensive area.

2. **Right of Entry on Private Property.** Prior to entering upon private property or property owned by a public entity other than the Town for the purpose of graffiti removal the Town shall attempt to secure the consent of the property owner or responsible party and a release of the Town from liability for property damage or personal injury. If the property owner or responsible party fails to remove the offending graffiti within the time specified by this bylaw, or if the Town has requested consent to remove or paint over the offending graffiti and the property owner or responsible party has refused consent for entry on terms acceptable to the Town and consistent with the terms of this section, the Town may commence a civil action in the appropriate court for right of entry upon the said property and to recover administrative and abatement costs for the graffiti removal.

**3. Lien.** As to such property where the responsible party is the property owner, if all or any portion of the assessed eradication charges remain unpaid after thirty (30) days, pursuant to the authority created by Massachusetts General Laws Chapter 139 (Common Nuisances Statute), the portion thereof that remains unpaid shall constitute a lien on the property that was the subject of the eradication effort. The Town shall request an order for a lien from the appropriate court, and thereafter, shall cause a certified copy of the lien to be recorded with the Middlesex (South) Registry of Deeds where the land is located.

#### **Section 8.**

##### **Ease of Removal Provisions.**

**A. Common Utility Colors and Paint-type.** Any gas, electric, telephone, water, sewer, cable, telephone and other utility operating in the Town shall paint its above-surface metal fixtures with a uniform paint type and color that meets the universal standards of the industries. Said painting may be done on the utility's regular maintenance schedule if said schedule is within one (1) year of the enactment of this bylaw.

**B. Condition Encroachment Permits.** All encroachment permits issued by the Town shall, among such other things, be conditioned on:

- 1.** The permittee's application of an anti-graffiti material to the encroaching object of a type and nature that is acceptable to the Building Inspector or his designee;
- 2.** The permittee's immediate removal of any graffiti;
- 3.** The Town's right to remove graffiti or to paint the encroaching object; or
- 4.** The permittee's providing the Town with sufficient matching paint and/or anti-graffiti material on demand for use in the painting of the encroaching objects containing graffiti.

#### **Section 9.**

##### **Violations--Indemnification and Penalties and Guidelines Requested of a Court of Competent Jurisdiction.**

**A. Non-criminal Disposition--Indemnification.** Any person who commits an act of vandalism, including graffiti, in violation of this bylaw, shall be responsible to indemnify the property owner for all damages and costs incurred as direct result of such vandalism or graffiti.

**B. Non-criminal Disposition--Penalties.** Any person who commits an act of vandalism, including graffiti, in violation of this bylaw, shall be punished by a fine of three hundred dollars (\$300.00). All such fines shall be payable to the Town of Arlington. The police department and the Inspector of Buildings shall enforce the provisions of this bylaw.

**C. Liability of Parents and Legal Guardians.** In the case of an unemancipated minor, parents with legal custody ("parent") or legal guardian shall be jointly and severally liable with the minor for payment of damages and costs to the property owner and fines to the Town. This provision is not intended to conflict with M.G.L. c. 231 § 85G (Parents Liability for Willful Act of Minor Children).

**D. Failure to Pay Indemnification or Penalties.** If the violator of this bylaw, or if the violator is an unemancipated minor, the parent or legal guardian fails to make payment to the Town, the Town is authorized to commence a civil action against such violator or parent or legal guardian seeking payment of the fine(s), indemnification for damage to Town-owned property, and administrative costs. If necessary the Town may seek a lien against the personal and/or real property of the violator or parent or legal guardian to secure payment of the fine, restitution, and administrative costs.

**E. Arlington Public School Students.** If at the time of the vandalism occurrence the violator is a student with the Arlington Public Schools he or she may be subject to the Arlington's Public Schools' Code of Student Conduct, as amended, which is hereby incorporated by reference.

**F. Criminal Disposition--Restitution.** In addition to any punishment specified in this bylaw or the Massachusetts General Laws, a court may order any violator to make restitution to the victim for damages or loss caused directly or indirectly by the violator's offense in the amount or manner determined by the court. In the case of a minor, the parents or legal guardian may be ordered jointly and severally liable with the minor to make restitution. It is acknowledged that upon an application and finding of indigence, the court may decline to order fines against the minor, parents or guardian.

**G. Forfeiture of Personal Property.** All personal property, including, but not limited to, automobiles, motorcycles and bicycles, used or intended to be used in violating this bylaw may be forfeitable to the Town by the court. In forfeiting such personal property, the court is requested to follow the procedures outlined in Massachusetts General Laws concerning the forfeitures of personal property. In any forfeiture proceeding under this section, the court is requested to not order forfeiture unless it finds that the forfeiture is commensurate with the severity of the violation to the extent required by the laws of the Commonwealth of Massachusetts and the United States Constitution.

**H. Community Service.** In lieu of, or as part of, the penalties specified in this section, a minor or adult may be required to perform community service as prescribed by the court based on the following guidelines:

1. The violator shall perform at least thirty (30) hours of community service.
2. At least one parent or guardian of the minor shall be in attendance a minimum of fifty percent (50%) of the period of assigned community service.

3. The entire period of community service shall be performed under the supervision of a community service provider approved by the Chief of Police or the probation department of the court.

4. Reasonable effort shall be made to assign the violator to a type of community service that is reasonably expected to have the most rehabilitative effect on the violator, including community service that involves the performance of vandalism repair or graffiti removal.

5. Any minor determined to be a ward of the court under the laws of the Commonwealth of Massachusetts, as a result of committing an offense in the Town may be required, at the Town's option and subject to the approval of the court, to perform community service, including vandalism repair or graffiti removal service of not less than fifteen (15) hours or more than eighty (80) hours.

I. Civil Responsibility Wrongful Sale, Display or Storage. Any person who sells, displays or stores, or permits the sale, display or storage, of any graffiti implement in violation of the provisions of this bylaw may, at the discretion of the court, be personally liable for all costs, including attorney's fees and court costs, incurred by any party in connection with the removal of graffiti, the repair of any property containing graffiti, or such party's prosecution of a civil claim for reimbursement or damages resulting from such graffiti removal or property repair, arising from the use by any person of such wrongfully sold, displayed or stored graffiti implements in violation of the provisions of this bylaw, provided that such liability shall not exceed fifteen hundred dollars (\$1,500.00).

Collection of Indemnification Payments, Fines and Costs for Damage to Town Property: The Director of Public Works or his/her designee shall calculate the damages, costs and fines and he/she shall send itemized demand letters to the responsible party and/or to the appropriate district attorney's office handling the criminal restitution claim. The responsible party shall receive no more than two itemized demand letters. The first itemized demand letter shall require full payment of all damages, costs and fines within thirty days. The second demand letter shall require immediate payment. If full payment has not been received after the demand letters have been sent by the Director of Public Works or his/her designee the collection matter shall be referred to the Town Counsel. The Town Counsel or his/her designee shall make all reasonable and practical efforts to collect all outstanding damages, costs and fines."

(3-0)

Mr. Greeley and Mr. Hurd absent

**COMMENT:** The Board strongly endorses the comprehensive approach suggested by the Graffiti Task Force to deal with "tagging," which has become a considerable nuisance throughout the Town.

**ARTICLE 15 BYLAW AMENDMENT/CHANGES TO TOWN MEETING PROCEDURES COMMITTEE**

**VOTED:** To delete Title I, Article 1, Section 8 of the By-Laws in its entirety and replace it with a new Title I, Article 1, Section 8 as follows:

**Section 8. Procedures Committee**

- A. Name.** The name of this committee shall be the Town Meeting Procedures Committee.
- B. Appointing Authority.** The Moderator shall be the appointing authority for the committee, and shall also fill any vacancies.
- C. Composition.** The committee shall consist of five members who shall be: the Moderator, the Assistant Moderator, and three Town Meeting Members.
- D. Duties.** The committee shall consider, recommend, and report to the Town Meeting on matters related to Town Meeting procedures. The committee shall take a broad view of matters related to Town Meeting procedures. In addition to considering how such matters affect the Town Meeting, the committee shall also consider how these matters affect the desire of voters of the Town to become Town Meeting Members.
- E. Transitional provision.** When this section comes into effect, Town Meeting Members already on the committee shall remain on the committee. If the Moderator or Assistant Moderator is already on the committee, he shall now be on the committee by virtue of his office and his Town Meeting Member position on the committee shall be declared vacant.

**(3-0)**

**Mr. Greeley and Mrs. Mahon absent**

**COMMENT:** The essence of the vote is to rewrite Section 8 relating to the Committee's duties in Article 1 of Title I of the Bylaws. The charge of the Committee would be expanded to include consideration of any matters relating to Town Meeting procedures. It would also consider such matters that would "affect the desire of voters of the Town to become Town Meeting members." It is the Board's view that this change will have the effect of reinvigorating this important committee and it urges an affirmative vote.

**ARTICLE 16 BYLAW AMENDMENT/CODE OF CONDUCT/TOWN MEETING**

**VOTED:** "That the Town does hereby adopt the following:

**RESOLUTION**

**No one may disrupt Town Meeting or otherwise infringe on the rights of Town Meeting, its members, or others who have been allowed to speak.**

**The Town Meeting supports and endorses the provision of state law that provides that if a person, after a warning from the Moderator or person acting as moderator, persists in disorderly behavior, the Moderator may order him or her to withdraw from the meeting, and, if he or she does not withdraw, may order a constable or any other person to remove him or her and confine him or her in some convenient place until the meeting is adjourned.”**

**(3-0)**

**Mr. Greeley and Mrs. Mahon absent**

**COMMENT:** The Board supports this resolution authored by Town Meeting member, Adam Auster, and endorsed by the Town Meeting Procedures Committee. It seeks to reiterate that it is imperative for the proper functioning of Town Meeting that members comport themselves with civility, courtesy and respect when other members of Town Meeting are speaking. It sets out in the body of the resolution State law that gives to the Moderator the power to have removed from the Town Hall anyone who disrupts Town Meeting.

**ARTICLE 17 BYLAW AMENDMENT/ARTICLE 6 PERSONNEL BYLAW**

**VOTED:** That Article 6 of Title I Classification and Compensation Plans is amended in Section 16 by adding the words, ‘Christmas Eve Day if same falls on a Monday through Friday’ to those list of days that qualify as holiday credits and that said Section 16 is further amended in the fourth paragraph thereof by deleting the following sentence, “The following half-days in each year shall be considered as half-day holiday credits Good Friday and Christmas Eve when it falls on any day Monday through Friday inclusive’ and substituting therefor the following sentence ‘Good Friday shall be considered as half day holiday credit.”

**(4-0)**

**Mr. Greeley absent**

**COMMENT:** The non-uniform unions have negotiated in the most recent collective bargaining agreements a provision that would make Christmas Eve day a full holiday as opposed to a half holiday. This Bylaw change would provide the same benefit to non-union personnel.

**ARTICLE 18 BYLAW AMENDMENT/DATA PROCESSING DEPARTMENT**

**VOTED:** That the Board of Selectmen will report at Town Meeting on Article 18.

**(4-0)**

**Mr. Greeley absent**

**COMMENT:** The Board is still considering the merits of this article and its various ramifications. The Board will propose a vote prior to its consideration by Town Meeting.

**ARTICLE 19** **BYLAW AMENDMENT/PARKING AND TRAFFIC MANAGEMENT**

**VOTED:** That no action be taken under Article 19 of the Warrant.

**(4-0)**

**Mr. Greeley absent**

**COMMENT:** The Board appreciates the well-intentioned idea behind this 10 registered voters article. However, it firmly believes that the Town's current system has served the Town well. Under the General Laws the Board of Selectmen acts as the Traffic and Parking Commissioners of the Town. Although much of the Selectmen's time is spent on these matters, the Board believes that it is best that the Town's elected representatives consider each individual concern voiced by the citizens of the Town who have these kind of issues to bring to their attention. The Board recognizes the importance to these individuals of their concerns. The Board relies heavily on recommendations of the Police Department but also relies on the excellent expertise offered by its Transportation Advisory Committee which has within its membership people who are professionally trained on traffic and parking matters. For some years the previous Town Treasurer performed the duties of Parking Clerk and adjudicated successfully and fairly many claims of citizens concerning alleged inappropriate parking tickets. The incumbent Town Treasurer has continued this tradition. The Board urges a "no action" vote.

**ARTICLE 20** **BYLAW AMENDMENT/RECYCLING PROGRAM**

**VOTED:** That the Town does hereby amend the Bylaws in Article 14 Recycling Program of Title I of the Bylaws by adding to Section 7 the following at the end thereof:

**"The Rules and Regulations of the Board of Public Works are hereby incorporated by reference. Any violations thereof will be subject to the Noncriminal Disposition Procedure. The enforcing person shall be any police officer of the Town and any individual designated as such by the Director of Public Works. Violations of the Rules and Regulations shall be punished by a fine of \$20.00 each and every violation to be considered a separate offense."**

**(3-0)**

**Mr. Greeley and Mrs. Mahon absent**

**COMMENT:** The Town Manager met with the principal proponents of this article including representatives of the Town's Recycling Committee. It was agreed that rather than list each of the items that must be segregated for pick up and excluded from solid waste stream that it would be the better practice to incorporate the list in the Rules and Regulations. This approach was favored since residents are much more likely to be familiar with the Rules and Regulations rather than the Town Bylaws since the Rules and



**ARTICLE 21**

**BYLAW AMENDMENT/SERVICE COUNTING FOR TOWN BENEFITS**

**(3-0)**

**COMMENT:** Like last year the principal proponent of this article apparently chose not to attend the Board of Selectmen's meeting when this article was heard which put the Board at a disadvantage as to what exactly be intended in this article. In addition, the Town Counsel has advised that this gentleman's failure to consult with him prior to insertion of this article in the Warrant has resulted in a potentially fatal procedural infirmity in addition to a lack of clarity as to what he intends. The article proposes a bylaw amendment when in point of fact special legislation would be necessary to exempt certain compensated part-time individuals from the benefits of Chapter 32B of the General Laws, the Municipal Employee Insurance Law, and Chapter 32, the Public Employee Retirement Law. The former Chapter provides that employees who work a minimum of 20 hours per week and who are compensated are entitled to participate in the Town's insurance program. The latter provision provides that if certain compensated individuals pay into the Town's retirement system for a minimum of 10 years, they are entitled to a modest pension. The Board believes that although not stated in the article the intention of the proponents is to eliminate health insurance and retirement benefits for compensated elected officials. Town Meeting should understand that a member of the Board of Selectmen can expect an annual pension in the vicinity of \$450.00 if such selectmen serves a minimum of 10 years.

A vote of no action is urged.

**VOTED:** That the Town does hereby request and authorize the Board of Selectmen to file Home Rule Legislation to provide as follows:

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**Section 1** Notwithstanding the provisions of any special or general law to the contrary including without limitation Chapter 31 of the General Laws, the Civil Service Law, Brian Gormley, a resident of the Town of Arlington is authorized to take the Civil Service examination for the appointment to the position of Firefighter notwithstanding the fact that he has attained the age of 32.

**Section 2** This Act will take effect upon its passage”

**(4-1)**

**Mrs. LaCourt voted in the negative**

**COMMENT:** The General Laws restrict individuals from taking Civil Service examinations for the positions of firefighter and police officer unless a particular city or town has accepted certain provisions of law. The Town Manager as well as the Police Chief and the Chief of the Fire Department strongly oppose adoption of this law for a variety of reasons. Those reasons include the fact that these positions should be filled by younger individuals in order to take account of the Town’s large financial investment in their training and that these jobs are, on the whole, best filled by younger men and women. In addition there is a concern that individuals with long-time municipal service in a non-uniform position could take the Civil Service test and be appointed to one of these positions and retire in a relatively short time but obtain the substantially greater benefits that a Class One Retirement Classification affords. Class One is for public safety personnel rather than Class Two, which applies to most other employees who must serve longer to qualify for full benefits. In addition the Town Counsel is concerned about potential discrimination suits if an individual, for instance, at the age of 51 or 52, being unqualified for the job, is turned down for appointment and claims age bias.

Nonetheless the Board believes that qualified individuals should not necessarily be foreclosed from the appointment opportunity and the Board has adopted a policy of viewing each request on a case-by-case basis. If this special legislation were to pass, this gentleman would only be permitted to take the examination. In order to be appointed he would still have to meet all other prerequisites. Mr. Gormley will address Town Meeting to assure the Town Meeting of his bona fides. Mr. Gormley is 36 years of age.

## **ARTICLE 23**

## **HOME RULE LEGISLATION/DANIEL WESINGER**

**VOTED:** That the Town does hereby request and authorize the Board of Selectmen to file Home Rule Legislation to provide as follows:

**“AN ACT TO PERMIT TOWN RESIDENT, DANIEL WESINGER TO TAKE THE CIVIL SERVICE TEST FOR THE POSITION OF FIREFIGHTER IN THE TOWN OF ARLINGTON.**

**Section 1** Notwithstanding the provisions of any special or general law to the contrary including without limitation Chapter 31 of the General Laws, the Civil Service law, Daniel Wesinger, a resident of the Town of Arlington is authorized to take the Civil Service examination for appointment to the position of Firefighter notwithstanding the fact that he has attained the age of 32.

**SECTION 2 THIS ACT WILL TAKE EFFECT UPON ITS PASSAGE.”**

**(4-0)**

**Mr. Greeley absent**

**COMMENT:** In addition to the reasons provided under Article 22 relating to Mr. Gormley, Mr. Wesinger has recently completed a tour of duty in the Armed Forces in which he was trained as a firefighter, HAZMAT technician and learned related duties. As indicated under the comment under the previous article the Town has not accepted a certain provision of state law which would remove the maximum age requirement but with the undesirable consequences enumerated under that Comment. Town Meeting should know, however, that if the Town had accepted the section, Mr. Wesinger would not be in need of the special legislation since he would be able to add his four years of military service to the age 32 maximum limit. Mr. Wesinger is presently age 34.

**ARTICLE 24**

**HOME RULE LEGISLATION/ALL  
ALCOHOLIC BEVERAGES**

**VOTED:** That the Board of Selectmen will report at Town Meeting on Article 24.

**(4-0)**

**Mr. Greeley absent**

**COMMENT:** The board has caused to be place on this year’s annual election ballot a nonbinding public advisory question, which asks the voters of the Town to give their opinion as to whether they favor home rule legislation that would permit the Board as the local Licensing Authority to issue up to three all-alcohol package store licenses. The Board will consider the electorate’s response and depending upon the results of this question the Board may offer an affirmative motion requesting such home rule legislation.

**ARTICLE 25**

**HOME RULE LEGISLATION/SEAT RESTRICTION ALL  
ALCOHOL RESTAURANT LICENSE**

**VOTED:** That the Town does hereby request and authorize the Board of Selectmen to petition the legislature to enact the following legislation:

**“AN ACT REDUCING THE MINIMUM SEATING CAPACITY OF  
A RESTAURANT THAT IS AUTHORIZED TO APPLY TO THE  
LICENSING AUTHORITY OF THE TOWN OF ARLINGTON FOR  
PERMISSION TO SERVE ALL ALCOHOLIC BEVERAGES IN  
THE TOWN OF ARLINGTON.**

**Section 1. Notwithstanding the provisions of Chapter 887 of The Acts  
of 1977, An Act Relative to the Granting of Licenses for the Sale of All  
Alcohol Beverages at Certain Restaurants in the Town of Arlington,  
or any other special act or general law to the contrary, the Selectmen  
of the Town of Arlington shall cause to be placed on the official ballot**

used in the Town of Arlington by the registered voters thereof at the Annual Town Election to be held in the year 2008 the following question:

Shall the Board of Selectmen be granted the authority to reduce from 99 to 50 the minimum seating capacity for restaurants and function rooms for the sale therein of all alcohol beverages to be consumed on the premises?

Yes \_\_\_\_\_

No \_\_\_\_\_

If a majority of the votes cast in said Town in answer to said question is in the affirmative, said Town shall be taken to have authorized the sale in said Town of all alcoholic beverages to be drunk on the premises for not more than ten restaurants and function rooms having a seating capacity of not less than fifty persons. Said licenses shall be subject, however, to all the other provisions of said Chapter one hundred and thirty-eight.

Section 2. The Board of Selectmen of the Town of Arlington is hereby authorized to and shall include a summary of the aforesaid question to be printed on the ballot along with the question as stated in section one and to print said summary.

Section 3. This act shall take effect upon its passage.”

(3-0)

Mr. Greeley and Mrs. Mahon absent

**COMMENT:** The Board supports the reduction in seating capacity for the issuance of an all-alcoholic beverages license from 99 seats to 50 seats as requested by this 10 registered voter article. It is indisputable that the Board’s ability to issue an unlimited number of beer and wine licenses for restaurants has been extremely successful in making Arlington a virtual Mecca for restaurants with a concomitant increase of foot traffic that have contributed to economic benefits beyond simply dining establishments. The Town recently voted to increase from five to ten the number of restaurants who can serve all alcoholic beverages. The Board considers it reasonable to make these licenses available to midsized restaurants and thus the reduction from 99 to 50 seats ballot question. The Chamber of Commerce supports this change and will speak to this article on Town Meeting floor. The Board urges an affirmative vote.

## **ARTICLE 26 HOME RULE LEGISLATION/PENSION FUNDING PROGRAM**

**VOTED:** That the Town hereby requests and authorizes the Board of Selectmen to file home rule legislation substantially as follows:

**“AN ACT EXTENDING THE FUNDING SCHEDULE REQUIRED TO REDUCE THE TOWN OF ARLINGTON’S ACTUARIAL LIABILITY CALCULATED TO FULLY FUND ITS RETIREMENT**

**OBLIGATION AND TO DIVERT FUNDS INTO ITS OTHER POST-EMPLOYMENT BENEFITS TRUST FUND.**

**Section 1. Notwithstanding any special or general law to the contrary including without limitation Section 22D of Chapter 32 of the General Laws, the Retirement Board of the Town of Arlington and the Town may extend its retirement system funding schedule calculated to reduce the unfunded actuarial liability of the system to zero from June 30, 2023 to June 30, 2028 and that the difference between its funding liability that would have been necessary to reduce its liability to zero by 2023 rather than 2028 may be appropriated by the Town Meeting after recommendation of the Board of Selectmen to the Other Post-Employment Benefit Trust Fund established by the provisions of Chapter 161 of the Acts of 2005.**

**Section 2. This Act shall take effect upon its passage.”**

**COMMENT:** The Board shares the concern of the Retirement Board and, in particular, former Town Treasurer, John Bilafer, regarding the Town’s ability to meet its multi-million dollar health insurance liability for its retired employees. The Town has previously determined that its liability for its employee pension system should be fully funded by 2023. State law permits funding schedules that show full funding by 2028. If this legislation were to pass, then the Town would have the option each year to take a look at how the pension system investments have performed and divert the difference between the 2023 yearly obligation and the 2028 extended funding schedule obligation and pay same into the OPEB, which is that fund utilized for funding the Town’s liability for health insurance for its retirees. Mr. Bilafer will make a presentation to Town Meeting on this subject.

**ARTICLE 27 HOME RULE LEGISLATION/ACTIVE EMPLOYEE AND RETIRED EMPLOYEE HEALTH CARE TRUST FUND ACCOUNT**

**VOTED:** That no action be taken under Article 27 of the Warrant.

**(3-0)**

**Mr. Greeley and Mrs. Mahon absent**

**COMMENT:** Much of what is contemplated in this 10 registered voters article will be accomplished under the Finance Committee’s vote under Article 57 of the Warrant. The Board supports the Finance Committee’s recommended vote.

**ARTICLE 28 HOME RULE LEGISLATION/RENTAL RECEIPTS**

**VOTED:** That no action be taken under Article 28 of the Warrant.

**(3-0)**

**Mr. Greeley and Mrs. Mahon absent**

**COMMENT:** The Town Manager has been in consultation with the Superintendent of Schools, School Committee, and the Director of Planning with a view

towards potentially putting up for sale the Crosby and Parmenter Schools, which matter if approved would come before Town Meeting at a future date. Such sale would render this request for special legislation moot. The Town Manager may return to a future Town Meeting on a request for special legislation if such sale is not deemed advisable.

#### **ARTICLE 29**

#### **ESTABLISH COMMITTEE/BUS SHELTERS**

**VOTED:** That the Town does hereby establish a Bus Shelter Study Committee to evaluate the feasibility, costs, benefits and other ramifications of the Town entering into a contract with an MBTA sanctioned provider and erector of bus shelters, which would be located at appropriate MBTA bus stops within the Town. The Committee shall consist of five individuals to be appointed by the Board of Selectmen with input from the Chamber of Commerce, the Selectmen's Transportation Advisory Committee, the Redevelopment Board, the Director of Planning and the Town Manager. The Committee will report its findings and recommendations to the Selectmen and to the 2008 Annual Town Meeting.

**(4-0)**

**Mr. Greeley absent**

**COMMENT:** The Board supports this 10 registered voters article, which will study the desirability of providing bus shelters at certain Town bus stops. The cost of erection and maintenance of these shelters would be funded through advertising displayed on the shelters. One issue that the Committee will have to consider is that such shelters are not presently permitted uses under the Zoning Bylaw.

#### **ARTICLE 30**

#### **ESTABLISH COMMITTEE/PARKING MANAGEMENT**

**VOTED:** That no action be taken under Article 30 of the Warrant.

**(4-0)**

**Mr. Greeley absent**

**COMMENT:** This 10 registered voters article requests that various Town Departments perform a parking supply and demand study for the greater Massachusetts Avenue and Broadway commercial corridor. As the Traffic and Parking Commissioners of the Town, the Board with the assistance of its Transportation Advisory Committee will perform this study without the necessity of a Town Meeting vote.

#### **ARTICLE 31**

#### **CONTINUED TRANSFER OF JURISDICTION/PARMENTER AND CROSBY SCHOOLS**

**VOTED:** That the Board of Selectmen will report at Town Meeting on Article 31.

**(4-0)**

**Mr. Greeley absent**

**COMMENT:** The future of the Parmenter and Crosby Schools, which are currently rented by the Town is under discussion by the School Community and other Town officials. When the School Committee has reached a determination concerning the future of these schools the Board of Selectmen in consultation with the School Committee will propose a motion under this article.

**ARTICLE 32****RENAMING OF ARLINGTON SCHOLARSHIP FUND**

**VOTED:** That the Town, in recognition of the visionary efforts of the Founder of Arlington's Scholarship Fund, hereby changes the name of said scholarship fund from the Arlington Citizen Scholarship Foundation – Dollars for Scholars Program to: The John J. Bilafer Arlington Citizen's Scholarship Fund – Dollars for Scholars Program and that all references in Article 1 of Title II of the bylaws are amended accordingly.

(4-0)

Mr. Greeley absent

**COMMENT:** The Board feels that it is self-evident that John Bilafer's brainchild, which has afforded many thousands of dollars to assist graduates of Arlington High, Arlington Catholic and Minuteman Tech to advance their education should be renamed in his honor. Therefore, the Board supports an affirmative vote under this article, which was submitted by the present Town Treasurer, Stephen Gilligan.

**ARTICLE 33****EASEMENT/VENNER ROAD**

**VOTED:** That the Board of Selectmen will report to Town Meeting under Article 33.

**COMMENT:** The Board and the Town Manager are working with all interested parties including the owners of the parcel of land in question and will likely propose a vote that addressed the concerns of the parties.

**ARTICLE 34****REVOLVING FUNDS**

**VOTED:** That the Town hereby reauthorizes the following Revolving Funds and receives the following reports concerning expenditures and receipts thereof:

**Private Way Repair established under Article 46 of the 1992 Annual Town Meeting**

**Expenditures not to exceed \$200,000**

Beginning Balance	\$ 30,619.41
Receipts	14,278.86
Expenditures	17,108.15
Balance, 7/1/06	\$ 27,790.12
Receipts 7/1-12/31/06	2,924.44
Expenditures 7/1-12/31/06	0.00

**Public Way Repair established under Article 45 of the 1992 Annual Town Meeting**

**Expenditures not to exceed \$50,000**

Beginning Balance	\$1,559.21
Receipts	0.00
Expenditures	0.00
Balance, 7/1/06	\$1,559.21



Receipts 7/1-12/31/06	0.00
Expenditures 7/1-12/31/06	0.00

**Fox Library established under Article 49 of the 1996 Annual Town Meeting**

**Expenditures not to exceed \$20,000**

Beginning Balance	\$3,262.39
Receipts	5,314.50
Expenditures	2,211.19
Balance, 7/1/06	\$6,365.70
Receipts 7/1-12/31/06	2,378.00
Expenditures 7/1-12/31/06	446.98

**Robbins House established under Article 77 of the 1997 Annual Town Meeting**

**Expenditures not to exceed \$75,000**

Beginning Balance	\$3,884.44
Receipts	39.754.00
Expenditures	37,022.27
Balance, 7/1/06	\$ 6,616.17
Receipts 7/1-12/31/06	19,520.00
Expenditures 7/1-12/31/06	18,320.36

**Conservation Commission established under Article 44 of the 1996 Annual Town Meeting -expenditures not to exceed \$50,000**

Beginning Balance	\$2,106.07
Receipts	620.00
Expenditures	0.00
Balance, 7/1/06	\$2,726.07
Receipts 7/1-12/31/06	0.00
Expenditures 7/1-12/31/06	0.00

**Uncle Sam established under Article 31 of the 2000 Annual Town Meeting**

**Expenditures not to exceed \$2,000**

Beginning Balance	\$1,147.80
Receipts	0.00
Expenditures	788.32
Balance, 7/1/06	\$ 359.48
Receipts 7/1-12/31/06	0.00
Expenditures 7/1-12/31/06	0.00

**Life Support Services established under Article 37 of the 2001 Annual Town Meeting Expenditures not to exceed \$400,000**

Beginning Balance	\$109,243.38
Receipts	122,511.80
Expenditures	158.429.64
Balance, 7/1/06	\$ 73,325.54
Receipts 7/1-12/31/06	80.541.87
Expenditures 7/1-12/31/06	65,702.52

**Board of Health Fees established under Article 30 of the 2005 Annual Town Meeting Expenditures not to exceed \$50,000**

Beginning Balance	\$15,940.15
Receipts	30,705.76
Expenditures	7,610.61
Balance, 7/1/06	\$39,035.30
Receipts 7/1-12/31/06	2,225.00
Expenditures 7/1-12/31/06	10,124.75

**Field User Fees- Established under Article 78 2004 Annual Town Meeting Expenditures not to exceed \$40,000**

Beginning Balance	\$5,174.00
Receipts	20,865.00
Expenditures	4,500.00
Balance, 7/1/06	\$21,539.00
Receipts 7/1-12/31/06	5,361.75
Expenditures 7/1-12/31/06	0.00

**Robbins Library Rental – Established under Article 35 2006 Annual Town Meeting Expenditures not to exceed \$25,000**

Beginning Balance	0.00
Receipts	800.00
Expenditures	0.00
Balance, 7/1/06	800.00
Receipts 7/1-12/31/06	1,000.00
Expenditures 7/1-12/31/06	729.39

**Town Hall Rental – Established under Article 35 2006 Annual Town Meeting Expenditures not to exceed \$75,000**

Beginning Balance	0.00
Receipts	3,455.00
Expenditures	2,966.21
Balance, 7/1/06	488.79
Receipts 7/1-12/31/06	4,290.00
Expenditures 7/1-12/31/06	5,332.04

**White Goods Recycling – Established under Article 35 2006 Annual Town Meeting Expenditures not to exceed \$75,000**

Beginning Balance	0.00
Receipts	0.00
Expenditures	0.00
Balance, 7/1/06	0.00
Receipts 7/1-12/31/06	32,650.00
Expenditures 7/1-12/31/06	3,759.74

**ARTICLE 35**

**AUTHORITY TO FILE FOR GRANTS**

**VOTED:** That the Town hereby gives the Town Manager, the Board of Selectmen, the Superintendent of Schools, and the School Committee the general authority to file applications and to accept grants from the federal government, the Commonwealth of Massachusetts and any other grant making organization during fiscal year 2008.

**(4-0)**

**Mr. Greeley absent**

**COMMENT:** The above-referenced Town officials already have the authority to file for grants under the General Laws, however, some grant-making authorities like to see a Town Meeting vote in support of their efforts.

#### **ARTICLE 36**

#### **SPECIAL EDUCATION FUND**

**VOTED:** That the Board of Selectmen supports the recommended vote of the Finance Committee offered under Article 36 of the Warrant.

**(4-0)**

**Mr. Greeley absent**

**COMMENT:** The Finance Committee will propose a transfer and carry over of certain Special Education Funds for the same purpose for use in fiscal 2008. Up until this year such a carry over was not permitted by the Department of Revenue. Department of Revenue regulations have changed, however, which permit a one year carry over.

#### **ARTICLE 37**

#### **PERMISSIVE LEGISLATION**

**VOTED:** That no action be taken under Article 37 of the Warrant.

**(4-0)**

**Mr. Greeley absent**

**COMMENT:** This is the usual article submitted by the School Department which would permit the Town to accept any permissive legislation that would apply to the schools relating to retirement changes, education reform, or that relating to special needs students. A no action vote is recommended since no such permissive legislation is currently available. If any becomes available, the Board in consultation with the School Department will offer a different motion.

## **ARTICLE 38**

## **ENDORSEMENT OF CDBG APPLICATION**

**VOTED:** That the Town endorse the application for Federal Fiscal Year 2008 prepared by the Town Manager and the Board of Selectmen under the House and Community Development Act of 1974 as amended.

**COMMENT:** This is the yearly article by which the Board and the Manager request Town Meeting's endorsement of next year's CDBG application.

## **ARTICLE 42**

## **HOME RULE LEGISLATION/TOWN CARBON BANK**

**VOTED:** That no action be taken under Article 42 of the Warrant.

**(3-0)**

**Mr. Greeley and Mrs. Mahon absent**

**COMMENT:** The Board generally supports the sentiments that are contained in this 10 registered voters' article. It encourages such suggestions as Sustainable Arlington establishing a program which would permit interested residents to estimate their energy consumption from the use of fuels into an amount of money which could then be given to the Town for the planting of trees. There are tables available for this calculation. There are also procedures currently available for the Town to accept donations for the purchase and planting of trees. Accordingly, the intent of this article can be effectively carried out without setting up unnecessary bureaucratic procedures that impose a burden on limited staff resources.

## **ARTICLE 43**

## **CREATE POSITION/ENERGY MANAGER**

**VOTED:** That no action be taken under Article 43 of the Warrant.

**(3-0)**

**Mr. Greeley and Mrs. Mahon absent**

**COMMENT:** Again, the Board supports the intent of this article, however, the Board does not support the hiring of an individual to perform energy-saving functions. Rather, the Town Manager will be establishing an Energy Working Group composed of the Director of Public Works and other Town employees to perform many of the same functions that the Energy Manager contemplated by this article would perform.

## **ARTICLE 55**

## **ESTABLISH COMMITTEE/LIBERTY RIDE**

**VOTED:** The Town hereby establishes a committee to be known as the "Liberty Ride Study Committee," comprised of five members two to be appointed by the Board of Selectmen, two by the Historical Commission, and one by the Arlington Chamber of Commerce. The charge of the Committee is to explore the feasibility and benefits of the Town joining the Liberty Ride, which is a fee-based bus service that presently shuttles tourists between historical sites in Concord and Lexington. The Committee would determine the requirements of joining the Liberty Ride including the cost thereof. The Committee

**will report its findings to the Board of Selectmen and the 2008 Annual Town Meeting.**

**(3-0)**

**Mr. Greeley and Mrs. Mahon absent**

**COMMENT:** If joining the Liberty Ride proves feasible, the Board believes that it would have the effect of aiding the business community as well as raising the profile of the Town's numerous historical sites especially those relating to the Revolutionary War and in particular April 19, 1775.

#### **ARTICLE 58**

#### **LOCAL OPTION TAXES**

**VOTED:** That the Board of Selectmen will report at Town Meeting on Article 58.

**(3-0)**

**Mr. Greeley and Mrs. Mahon absent**

**COMMENT:** This article is regularly inserted each year in the event that the legislature passes any local option taxes. Presently pending in the legislature is a local option tax which would allow an additional one percent on the meals and hotel taxes, the majority of the revenue of which would be sent to cities and towns. If this legislation passes, the Board may recommend its adoption.

#### **ARTICLE 60**

#### **CREATE ARLINGTON ANIMAL COMMISSION**

**VOTED:** That no action be taken under Article 60 of the Warrant.

**(4-0)**

**Mr. Greeley absent**

**COMMENT:** The Board supports the intent of the proponents of this 10 registered voters' article but believes that the goals of the proponents can be accomplished without a bylaw change. The Board believes that the Police Department, Animal Control Officer, and the Board of Health work cooperatively and effectively in animal control matters. Nonetheless, the Board has encouraged the Town Manager to facilitate a process by which the citizens of the Town, particularly pet owners, can have input into the issues that arise regarding pets.

#### **ARTICLE 70**

#### **ADJUDICATORY HEARINGS**

**VOTED:** That the Town hereby adopts Section 23D of Chapter 39 of the General Laws which provides as follows:

**“(a) Notwithstanding any general or special law to the contrary, a member of any municipal board, committee or commission when holding an adjudicatory hearing shall not be disqualified from voting in the matter solely due to that member's absence from no more than a single session of the hearing at which testimony or other evidence is received. Before any such vote, the member**

shall certify in writing that he has examined all evidence received at the missed session, which evidence shall include an audio or video recording of the missed session or a transcript thereof. The written certification shall be part of the record of the hearing. Nothing in this section shall change, replace, negate or other supersede applicable quorum requirements.

- (b) By ordinance or bylaw, a city or town may adopt minimum additional requirements for attendance at scheduled board, committee, and commission hearings under this section.

The acceptance of this section shall apply to the Redevelopment Board, Zoning Board of Appeals, Conservation Commission, Historical Commission and the Historic District Commissions.”

(3-0)

Mr. Greeley and Mrs. Mahon absent

**COMMENT:** The acceptance of this Section would permit members of local boards, such as the Redevelopment Board, the Conservation Commission, and the Zoning Board of Appeals to miss a single meeting and still vote on the special permit or other adjudicatory decision provided they review the evidence submitted at the missed meeting session by review of a transcript, or audio or video tapes. The Chairs of the Redevelopment Board, Historical District Commissions, Conservation Commission, and the Zoning Board of Appeals all favor adoption of this permissive legislation. Occasionally a member of these boards is absent for one meeting when they are voting on variances, special permits, certificates of appropriateness, and so forth. Under the current law any member of these boards who is absent for one adjudicatory hearing may not vote on the final decision. This section permits a person to miss one meeting and still vote if he or she signs an affidavit which becomes part of the public record of the hearing if they listen to an audiotape, view a videotape, or read a transcript of the missed meeting. This will obviate the need for the particular commission or board to start the hearing process over. The Board recommends an affirmative vote.

## **ARTICLE 71**

## **RESOLUTION/SUSTAINABILITY ACTION PLAN**

**VOTED:** That the Town hereby adopts the following Resolution

**WHEREAS,** global warming increasingly threatens the world’s health, environment, and economy;

**WHEREAS,** melting of Arctic and Antarctic ice, the Greenland ice mass, and glaciers around the world is proceeding at a rapid rate;

**WHEREAS,** the consensus among scientists is that the world must reduce its emissions of greenhouse gases (GMG) by at least 75% in order to eventually stabilize the climate;

**WHEREAS,** Massachusetts will be increasingly harmed by global warming through changes in our climate, worsening of storms, floods, and droughts, damage to native

plant and animal species, rising sea levels, spread of diseases, and losses to our economy;

**WHEREAS, the New England Governors and Eastern Canadian Premiers released a Climate Action Plan in 2001 setting goals of reducing GHG emissions to 1990 levels by 2010, to 10% below 1990 levels by 2020, and eventually by 75 to 85% below current levels;**

**WHEREAS, the Commonwealth of Massachusetts issued its own Climate Action Plan in 2005 committing the Commonwealth to the same goals and laying out a range of policies to achieve the goals;**

**WHEREAS, actions to reduce emissions of carbon dioxide (CO<sub>2</sub>) and other GHGs can be taken not only at the national and state levels, but also by local government and households;**

**WHEREAS, in the year 2000 the Town of Arlington joined the international Cities for Climate Protection campaign through a vote by the Selectmen, committing itself to reducing local emissions of GHGs;**

**WHEREAS, an inventory done for Arlington in 2000 estimated that total global warming emissions attributable to Arlington's residents, businesses, Town government and other institutions were the equivalent of 473,540 tons of CO<sub>2</sub> in 1997;**

**WHEREAS, Sustainable Arlington, on behalf of the Town, completed a Climate Action Plan (Arlington Sustainability Action Plan, or ASAP, Part I) that sets goals of reducing our local GHG emissions by 6% in 2010 and 12% in 2015, and lays out a range of actions to achieve these goals;**

**WHEREAS, the Board of Selectmen has endorsed the ASAP Part I and instructed the Town Manager to participate in its implementation;**

**THEREFORE,**

**Arlington Town Meeting hereby votes to adopt the ASAP Part I, and further instructs the Town Manager to place a priority on its implementation, including creation of an Energy Management Task Force for the Town, which shall have the responsibility to maximize energy efficiency within Town operations, to promote efficiency for Town residents and businesses, and to explore possibilities for implementing renewable energy within the Town.**

**(3-0)**

**Mr. Greeley and Mrs. Mahon absent**

**COMMENT:** The Board strongly endorses this resolution that will strengthen the Town's commitment to address how it can best respond to the challenges of global warming.

**ARTICLE 72**

**RESOLUTION/WATER AND SEWER ENTERPRISE  
FUND HEALTH INSURANCE OFFSET PAYMENTS**

**VOTED:** That no action be taken under Article 72 of the Warrant.

**(3-0)**

**Mr. Greeley and Mrs. Mahon absent**

**COMMENT:** The Finance Committee will report on this article.

**ARTICLE 73**

**RESOLUTION/WELFARE AND SAFETY OF CITIZENS**

**VOTED:** The Board will report to Town Meeting under Article 73.

**COMMENT:** The Board has not yet finalized any proposed action under this article.

**ARTICLE 74**

**RESOLUTION/WAR ON TERROR**

**VOTED:** That the Town does hereby adopt the following resolution:

**WHEREAS, the Town of Arlington, Massachusetts has a long and distinguished history of certain residents answering the call to defend freedom from every foe, from the Revolutionary War to the War on Terrorism; and**

**WHEREAS, many Arlington residents have paid the ultimate sacrifice in defending our freedoms so that we may be safe, secure and free; and**

**WHEREAS, a number of brave and dedicated Arlington residents cannot be thanked enough for dedicating a portion of their lives to the defense of Our Great Nation.**

**Be it therefore resolved that we, the Town Meeting Members, on behalf of every resident of Town of Arlington, extend this Statement of Appreciation to the Service Men and Women of the United States Armed Forces, and their families, for their supreme sacrifice in defending these United States of America.**

**(3-0)**

**Mr. Greeley and Mrs. Mahon absent**

**COMMENT:** The Board strongly endorses this resolution supporting those Arlington residents and other individuals comprising the men and women of the United States Armed services. It should not be considered as an endorsement on the war in Iraq. That issue was not discussed by the Board.

**ARTICLE 75**

**RESOLUTION/POSITIVE PARENTING**

**VOTED:** That no action by taken under Article 75 of the Warrant.

**(3-0)**

**Mr. Greeley and Mrs. Mahon absent**



**COMMENT:** Although the Board is sympathetic with the substance of this resolution, it does not believe that it is an appropriate topic for Town Meeting consideration.